



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 10/626,404 | 07/24/2003 | Brett Marc Halpern | Pro Se | 1065 |
| 7590 | 10/06/2005 | | EXAMINER | |
| Brett Halpern 85-08 212 Street Hollis Hills, NY 11427 | | | KHAIRA, NAVNEET K | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 3754 | |

DATE MAILED: 10/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

(P)

| | | | |
|------------------------------|----------------------|---------------------|--|
| Office Action Summary | Application No. | Applicant(s) | |
| | 10/626,404 | HALPERN, BRETT MARC | |
| | Examiner | Art Unit | |
| | Navneet Sonia Khaira | 3754 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on July 24, 2003.

2a) This action is FINAL. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-14 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 1-14 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some * c) None of:

1. Certified copies of the priority documents have been received.

2. Certified copies of the priority documents have been received in Application No. _____.

3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.

4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.

5) Notice of Informal Patent Application (PTO-152)

6) Other: _____.

DETAILED ACTION

Drawings Objections

1. The subject matter of this application admits of illustration by a drawing to facilitate understanding of the invention. Applicant is required to furnish a drawing under 37 CFR 1.81(c). No new matter may be introduced in the required drawing. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d).

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejection is under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-14 are rejected under 35 U.S.C. 102(b) as being anticipated by Rohr (US 5,115,950).

Referring to claim 1, Rohr discloses a sealing and dispensing closure for an outlet opening of a container containing a consumable beverage, and comprising:

a) a closure body (40, fig 1) threadedly adapted (54, fig5) to be assembled to the outlet opening of the container (col 3, lines 52-55), said closure body (40) including a

tubular spout (88, fig 2) of substantial height extending axially outwardly from the threaded sleeve (52, fig 2) and which is adapted to communicate with the outlet opening of the container and through which the liquid contained in the container is adapted to be dispensed (col 1, lines 57-62),

b) a self sealing dispensing valve (70, col 1, line 60) which includes a marginal annular flange (96, fig 2), and which is movable by either external or internal pressure on the container between a closed position and an open position (col 1, lines 60-64); and

c) means of mounting (clamping member 84, col 4, lines 25-29) said self sealing dispensing valve (70, fig 2) below said spout (88, fig 2) and including an inwardly facing annular surface (92, fig 2) below said spout (88, fig 2), with said marginal annular flange (92, fig 2) of said valve (70) overlying said annular surface (178), an annular shoulder (84, fig 4) below said spout (88), and an annular retaining ring (64, fig 4) supported by said annular shoulder (84, fig 4) below said spout (88, fig 4) and engaging the side of the marginal annular flange (96, fig 2) opposite the annular surface (92, fig 3).

Referring to claims 2, 6, 7 and 11, Rohr further discloses wherein the closure body (40, fig 1) further includes an internally threaded sleeve (4, fig 5) which is adapted to be threadedly joined to the outlet opening of the container (col 3, lines 52-55) and which has a predetermined axial height (fig 1), and wherein said spout (88, fig 2) shown in fig 2, is shown to have a height at least 1/2 the axial height of the sleeve (52, fig 2).

Referring to claims 3, 8 and 12, Rohr further discloses in fig 2, the diameter of the spout (88, fig 2) is less than the diameter of the threaded sleeve (52, fig 2), and spout is coaxially joined to the threaded sleeve (52, fig 5) by means of a generally flat annular flange (130, fig 4).

Referring to claim 4, Rohr further discloses a flexible liner which could be in form of bead or other suitable means (54) positioned within the threaded sleeve of the closure body (40) for sealably engaging the outlet opening of the container when the closure is threadedly assembled thereon (col 3, lines 63-68).

Referring to claim 5, Rohr further discloses a container for containing and dispensing a consumable beverage and comprising:

- a) a container having a flexible body portion and an externally threaded outlet opening (col 1, lines 54-59),
- b) a sealing and dispensing closure (40, col 1, lines 60-64) joined to the outlet opening of the container and comprising (col 3, lines 52-55):
 - (i) a closure body (40, fig 2) which includes a tubular spout (88, fig 2) of substantial height and which communicates with the outlet opening of the container and through which the liquid contained in the container is adapted to be dispensed (col 3, lines 52-55), said spout (88) having an internal bore (fig 4) which includes an inwardly facing annular surface (88" fig 4) and an annular shoulder (84, fig 4) spaced below said annular surface (88"),

(ii) b) a self sealing dispensing valve (70, col 1, line 60) which includes a marginal annular flange (96, fig 2), and which is movable by either external or internal pressure on the container between a closed position and an open position (col 1, lines 60-64) and said self-sealing dispensing valve (70, fig 2) including a marginal flange (96, fig 2) overlying said annular surface (92, fig 3), and

(iii) an annular retaining ring (64, fig 4) supported by said annular shoulder (84, fig 4) and engaging the side of the marginal flange (96, fig 2) opposite the annular surface (92, fig 3).

Referring to claims 9 and 13, Rohr further discloses the self-sealing dispensing valve (70, fig 4) is configured to assume a generally downwardly extending concave (col 4, line 19, shown inside the spout, fig 2) configuration which is below the spout (88, fig 2).

Referring to claim 14, Rohr further discloses a spout (88, fig 2) extends axially outwardly from the threaded sleeve (52) as shown in fig 2 at a distance which is shown to be at least $\frac{1}{2}$ the axial height of the threaded sleeve (52).

Citation of Related Prior Art

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Brown et al (US 6,279,783), Brown et al (US 5,439,143), Viegas (US 5,307,955), and Stull (5,071,017) references also disclosed dispensing valves closures used on squeeze-type containers.

Conclusion

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Navneet Sonia Khaira whose telephone number is 571-272-7142. The examiner can normally be reached on 8:30am-5:00pm.

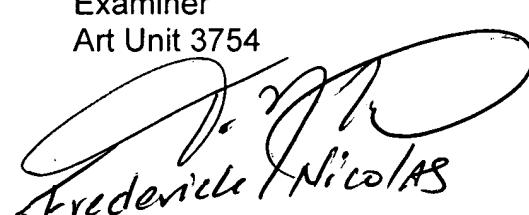
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mar Y. Michael can be reached on 571-272-4906. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



NK

Navneet Sonia Khaira
Examiner
Art Unit 3754



9/30/05
Frederick J. Nicolas
Primary Examiner
Art Unit 3754